

**CITY OF MILPITAS  
UNAPPROVED**

**PLANNING COMMISSION MINUTES**

**February 26, 2003**

**I.  
PLEDGE OF  
ALLEGIANCE**

Chair Hay called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

**II.  
ROLL CALL**

Present: Lalwani, Galang, Giordano, Hay, Nitafan, Sandhu and Williams  
Absent: None  
Staff: Faubion, Heyden and Rodriguez

**III.  
PUBLIC FORUM**

Chair Hay invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendize the matter for a future meeting.

**Ed Connor, resident at 1515 N. Milpitas Boulevard**, thanked the Commission and staff for going ahead with the decision from the February 5, 2003 Planning Commission meeting, of having the Telecommunications Commission review the amateur radio antenna proposal.

**IV.  
APPROVAL OF MINUTES  
February 5, 2003**

Chair Hay called for approval of the minutes of the Planning Commission meeting of February 5, 2003.

**Tambri Heyden, Planning Manager**, noted errors on page 3, paragraph 3 of the minutes and made the following changes.

SEC required regulations should be changed to "*FCC required regulations*" and one being anchored should be changed to "*ones being anchored*". Ms. Heyden also noted an error on page 3, paragraph 8 and changed George Burns to "*George Washburn*".

**Commissioner Giordano** noted an error on page 4, paragraph 6, changing Resident of 2070 Stratford Drive to "*Lou Anne McKeefery of 2070 Stratford Drive*".

**Motion** to approve the minutes of February 5, 2003 with the changes indicated.

M/S: Giordano/Galang

AYES: 7

NOES: 0

**V.  
ANNOUNCEMENTS**

Ms. Heyden announced that Marina Rush, Associate Planner, has resigned from her position with the City after a six-month leave to be with her family. **Chair Hay** asked staff to invite Mrs. Rush to a Planning Commission meeting to be recognized for her wonderful service and Ms. Heyden agreed to agendize the celebration for a future meeting.

Ms. Heyden noted the status of following projects:

- Apton Plaza Apartments mixed use project in Midtown will be agendized for the March 26, 2003 Planning Commission meeting.
- The Lockheed property, on the north side of Curtis Avenue called Park North, a high-density residential project, will be coming to the Planning Commission in May.
- An in-lieu housing fee ordinance will be coming to the March 12, 2003 Planning Commission meeting.
- A contract with a consultant is in negotiations to implement the first phase of Midtown, which would include preparation of a precise plan, gateway entry feature design, additional building sign guidelines and streetscape conceptual plans for Main Street. Ms. Heyden noted that if the contract is executed, certain products will be coming to the Planning Commission for input in the future.

Ms. Heyden also updated the Commission on the Home Depot six-month appeal process, which is going back to City Council on March 18, 2003. She noted that the task force has been successful with Home Depot to get landscaping along Great Mall Drive as an alternative to the screen wall.

Commissioner Giordano reported that she and Councilmember Livengood attended the final meeting of the Los Esteros architectural treatment design meeting for the Calpine Power Plant off route 237, and noted that the final draft will be presented. Commissioner Giordano also announced that she and Commissioner Lalwani attended the Public Official Housing Leadership on February 12, 2003 and brought back handouts. She noted that the next luncheon will be held on May 7, 2003.

Commissioner Giordano noted that she had received the Arts Commission minutes for the first time and asked if staff will be providing these minutes for Commissioners for future meetings. Ms. Heyden was unaware that the Commission was receiving the minutes and mentioned that she would get back to her at the next meeting.

Commissioner Giordano noted that the Arts Commission minutes stated that the "Percentage for Public Art" concept be taken to the Planning Department and the Planning Commission and asked staff if they knew anything about this. Ms. Heyden replied that it is a Midtown policy and when implemented in the future it would involve the Planning Commission.

Commissioner Giordano also mentioned that the City Council minutes stated that a committee will be formed for the City's 50<sup>th</sup> Anniversary and asked if the Planning Commission would have a representative. Ms. Heyden replied that she would report back on this.

Commissioner Lalwani announced that the Chamber of Commerce will be having a Crab Feed on February 28, 2003 starting at 5 p.m., and those interested should call the Chamber of Commerce for tickets at 262-2613.

**VI.  
APPROVAL OF  
AGENDA**

Chair Hay called for approval of the agenda.

There were no changes to the agenda.

**Motion** to approve the agenda.

M/S: Lalwani/Giordano

AYES: 7

NOES: 0

**VII.  
CONSENT CALENDAR  
Item Nos. 1, 2, 3 and 4**

Chair Hay asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no changes from staff.

Chair Hay opened the public hearing on Consent Item Nos. 1, 2 and 3.

There were no speakers from the audience.

**Close Public Hearing  
Item Nos. 1, 2 and 3**

**Motion** to close the public hearing on Consent Item No. 1. Consent Item No. 2 to be continued to the April 9, 2003 Planning Commission meeting and Consent Item No. 3 to be continued to the March 12, 2003 Planning Commission meeting.

M/S: Nitafan/Sandhu

AYES: 7

NOES: 0

**Motion** to approve the consent calendar on Consent Item Nos. 1, 2, 3 and 4.

- \*1 USE PERMIT NO. P-UP2002-28 AND "S" ZONE APPROVAL-AMENDMENT P-SA2003-16:** Request to install six telecommunications antennas within a roof screen and built-up parapet, and three ground-mounted equipment cabinets within fence enclosure at 1102 Pecten Court (APN 92-08-078). Applicant: AT&T Wireless. Project Planner: Annelise Judd, (408) 586-3273. (PJ #2302) *(Recommendation: Approval with Conditions)*
- \*2 USE PERMIT NO. P-UP2002-8:** A request to increase seating from 37 to 49 for an existing restaurant (Tofu House), add on-site beer and wine sales, and approve a parking reduction in conjunction with the increase in seating at 231 West Calaveras Boulevard (APN:022-25-041). Applicant: Sung Ho Yoon. Project Planner: Troy Fujimoto, (408) 586-3287. (PJ #2245) *(Recommendation: Continue to April 9, 2003)*
- \*3 USE PERMIT NO. P-UA2002-21:** Request for a parking reduction to add additional seating and beer and wine sales at 89 S. Park Victoria Drive (APN 88-04-048). Applicant: Yuri Tofu House. Project Planner: Staci Pereira, 583-3278. (PJ #2306) *(Recommendation: Continue to March 12, 2003)*

**\*4 S-ZONE AMENDMENT NO. P-SA2003-9:** A request for a sign program for a multi-tenant building and signage for a Starbucks at 1541 California Circle (APN: 022-37-002). Applicant: Delta Signs. Project Planner: Troy Fujimoto, 408-586-3287. *(Recommendation: Approval with Conditions)*

M/S: Nitaflan/Lalwani

AYES: 7

NOES: 0

## **VIII. NEW BUSINESS**

Chair Hay introduced Agenda Item No. 5 under New Business.

**1. ZONING ORDINANCE  
TEXT AMENDMENT NO.  
P-ZT2003-1 (ORDINANCE  
NO. 38.761), GENERAL  
PLAN MAP  
AMENDMENT NO. P-  
GM2003-1 AND ZONING  
MAP AMENDMENT NO.  
P-ZC2003-1:** Staff contact:  
Tambri Heyden, Planning  
Manager, 586-3280.

Ms. Heyden indicated that this item would be separated into 3 different presentation, discussion and actions in the following order:

1. Amendments to the General Plan and zoning maps properly designating existing parks in the POS classification and;
2. Adding the remainder of the Serra Center to the Midtown Area and those portions of Ordinance No. 38.761 regarding Zoning Ordinance Amendments affecting Midtown and;
3. Discussion of proposed Ordinance No. 38.761 regarding miscellaneous zoning code text amendments not affecting Midtown.

**Commissioner Nitaflan** announced that he would be abstaining from Item No. 1 and Item No. 2 due to a conflict of interest and Commissioner Giordano announced that she would be abstaining from Item No. 1 only due to a conflict of interest. At this moment, both Commissioners left the Council Chambers.

After presenting part No. 1, Chair Hay asked if the Commissioners had any questions.

There were no questions from the Commissioners.

**Motion** to concur with staff's direction regarding the amendments to the General Plan and zoning maps properly designating existing parks in the POS classification.

M/S: Williams/Lalwani

AYES: 7

NOES: 0

After the vote on part No. 1, Commissioner Giordano walked back into the Council Chambers and seated herself at the dais.

Ms. Heyden presented the Serra Center piece of Part No. 2, summarizing that Zoning Amendment Nos. 8, 14, 19, 26, 27, 28, 29 and 30 were also part of Part No. 2 and presented each amendment.

*Item No. 8 - to allow tandem parking for residential uses in MXD projects, R3 and R4 districts and prohibit for non-residential or guest parking requirements.*

*Item No. 14 – Add duplexes to prohibited uses in the MXD District and add language to close loophole if parcel is less than 20,000 SF.*

*Item No. 19 – Amend the TOD parking provisions to state the 20% parking reduction is for MXD-TOD. Chair Hay asked if R4 was being taken out of Midtown and Ms. Heyden replied, “No”, that this change corrects a typo since there is no R4-TOD in Midtown, only R4.*

*Item No. 26 – Delete large family day care homes from conditional uses sections of R1, R2, R3, R4 and MXD and add as permitted or accessory uses in those districts. In addition, include reference to the child care standards in Subsection 54.16 (General Provisions). Chair Hay asked if the definition is as per state code and Ms. Heyden responded, “Yes”. Chair Hay asked if a commercial child care center provides a Use Permit and Ms. Heyden replied “Yes”.*

**Commissioner Williams** asked if this change would increase the chance of family childcare centers impacting the neighborhood. Ms. Heyden responded that when an administrative application is submitted, parking would be evaluated. Also, the change includes a distance separation to avoid a concentration.

*Item No. 27 – Revise definition of family day care home to list large family child care homes as caring for 9 to 14 children (used to be 7 to 12) and small family child care homes as caring for up to 8 children (used to be 6).*

*Item No. 28 – Move language in 7.14 and add to General Provisions in 54.19 so that it will apply to all zoning districts where rental housing is allowed.*

*Item No. 29 – Allows up to 50 percent of total required parking to be compact stalls in these districts, however, not allowed for non-residential, guest parking and for parking garages with more than 8 stalls. Commissioner Williams asked how the 50 percent came about to which Ms. Heyden responded that it was not based on anything in particular. Commissioner Williams then mentioned that sport utility vehicles make for tight parking and feels that 50% may be too high. Ms. Heyden replied that staff will research this item in more detail.*

*Item No. 30 – Add FAR's for C2-TOD of 100% and M2-TOD of 40% to the TOD Overlay District development standards.*

**Motion** to concur with staff to add the remainder of the Serra Center to the Midtown Area and continue processing those portions of Ordinance No. 38.761 regarding Zoning Ordinance Amendments affecting Midtown with the change to Item No. 29 discussed above.

M/S: Giordano/Galang

AYES: 7

NOES: 0

After the vote on Part No. 2, Commissioner Nitafan walked back into the Council Chambers and seated himself at the dais.

Ms. Heyden presented Part No. 3 and presented the remaining amendments in proposed Ordinance No. 38.761 regarding miscellaneous zoning code text amendments not affecting Midtown.

*Item No. 1 – Antennas.* In addition to describing this amendment, Ms. Heyden gave an update on the Commission's requested input on this amendment from the CAC, Telecommunications Commission and CEPAC. She noted that the CAC's workplan will not allow them to review the HAM radio antenna item in March, and that CEPAC doesn't meet again until April, but their liaison didn't feel this issue was appropriate for review. She also indicated that input from the Telecommunications Commission was received on February 24<sup>th</sup> and they wanted more time (2-4 months) to study this, but did say they didn't want to see a height limit, given cost of crank up towers, a number of antennas limit out a restriction on rental apartments and guy wires.

Commissioner Williams asked if Mr. Washburn has been able to review the proposal and Ms. Heyden responded that Mr. Washburn drafted the bulk of the proposal.

Commissioner Williams mentioned the restriction on mast heights and mentioned that to have a crank on a mast to raise or lower it would be very expensive. Ms. Heyden indicated the cost ranged from \$1,200 to \$16,000.

Commissioner Giordano asked about the color of antennas and Ms. Heyden responded that the Telecommunications Commission appreciated aesthetics but are more concerned with technical issues. She also mentioned that staff will look into adding a restriction.

Commissioner Nitafo asked if the Telecommunications Commission disagreed with the 25-ft. height restriction and Ms. Heyden responded that they did not want to see a height restriction. Commissioner Nitafo felt the Hillside antenna material should be seen at night and Ms. Heyden responded that staff would have to look into adding a restriction.

Commissioner Galang asked if a resident is allowed to have 3 satellite dishes and Ms. Heyden responded not under the current proposal, but staff would revise it.

Chair Hay asked if a civil engineer has to approve any tower or mast installation and Ms. Heyden responded "Yes" and noted that the building department requires this, but would get clarification.

Chair Hay asked about towers and masts being no closer than 10 feet from the property line and Ms. Heyden noted that an accessory structure cannot be any closer than 3 feet from the property line.

Chair Hay asked if an operator of a radio facility needs to be licensed by the FAA and Ms. Heyden responded "Yes".

After discussion regarding whether or not to proceed with the antenna amendment given that not all requested Commissions will have completed their review by the March 26, 2003 public hearing, consensus was reached to keep moving forward and make the decision when the amendment goes to Council in May.

*Item No. 3 - Main building setback from wall (want to retain eaves setback for accessory structures only).* Commissioner Nitafan asked how many feet would there typically be from the wall of an accessory structure to the property line and Ms. Heyden replied "4.5 ft."

*Item No. 4 – To exclude in-ground pools and spas from the 30% rear yard coverage for accessory structures.* Chair Hay mentioned that staff might want to include in ground spas. Ms. Heyden agreed to add in-ground spas where in-ground pools are mentioned.

*Item No. 6 – Allow tri-laminate composition except in the hillside.* Commissioner Nitafan asked what type of material is allowed in the hillside, and Ms. Heyden replied "tile and wood shake, but no asphalt of any kind".

Commissioner Giordano mentioned that tri-laminate material is extremely thick and is fire retardant and very top quality. She does not understand why this material would be excluded from the hillside and Commissioner Nitafan and Commissioner Lalwani agreed. Consensus was reached to have staff revise this item to allow tri-laminate in the Hillside, disallow woodshake throughout the City, and to bring tri-laminate samples to the March 26, 2003 Planning Commission meeting.

*Item No. 7 – policies implementing Housing Element: a) Town Center – no longer require a Use Permit for Multi-Family Housing b) Revise density bonus overlay to comply with state law; c) Allow group dwellings – expand definition and allow in MXD, R3 and R4.*

Commissioner Nitafan asked about density and Ms. Heyden replied that density is the number of units per acres and that gross density allows adjacent density right-of-way to be included.

Consensus was reached to revise Town Center to allow multi-family housing as a permitted use if there was a minimum density of about 20 units per acres.

*Item No. 11 – Adds an administrative citation process similar to the Neighborhood Preservation Ordinance (NBO).* After discussion from the Commission, staff was directed to increase number of days from 15 to 31, change one year to 12 months so no confusion of calendar year vs. fiscal year, include an automatic inflationary fine increase each year, check with Building Department to see if a building permit can be held up on a property if there is a zoning violation and mention other city remedies to lack of fine payment besides 10% penalty, such as liens and collection agency referral.

*Item No. 13 – C1 – specify front setback of 20 feet.*

*Item No. 15 – Distinguish between medical and dental offices, clinics and laboratories in all Commercial and Industrial districts.* Commissioner Nitafan asked if this still includes acupuncture and Ms. Heyden responded "Yes".

*Item No. 17 – Subcommittee approval of Temporary Trailers if standards can't be met.*

*Item No. 18 – Council final authority on hillside variances.* Staff will report back to explain why 40-day reference was deleted.

*Item No. 19 – Correct typo regarding R4-TOD in north Midtown.* Chair Hay suggested describing in Section 43.06-2 what is meant by North Midtown.

*Item No. 20 – Reflect approval authority for S-Zone Amendments in MXD.* After a suggestion by staff to change the 5,000 sq.ft. building addition threshold for Planning Commission review to a percentage of existing building size and make it cumulative over time, consensus was reached to have staff make this change.

*Item No. 24 – Allow second family units as permitted uses.* Commissioners' Giordano and Nitafan made comments regarding requiring one of the units to be occupied by the property owner. Ms. Heyden suggested disallowing a separate entrance to the second family unit. Consensus was reached to have staff report back to see if Assembly Bill 1866 provides a definition of second family units. If it doesn't then staff shall amend the definition to disallow a separate entrance and in 6.13, add "at time of application".

*Item No. 25 - FAR and excluding sub-terranean and partial sub-terranean parking.* After much discussion regarding the impact of this change on the value of land, Ms. Heyden suggested that staff study further by looking at other urban cities, such as San Francisco and San Jose to see how they calculate FAR.

*Item No. 27 – Update definition of family childcare homes.* Commissioner Lalwani noted that the changed terminology makes it a bit confusing as to whether the childcare is provided in a home setting or commercial facility. Staff agreed to report back to see if state law defines these facilities other than to state children maximums and to clarify that child care facility (formerly day care home) is still a facility in a home.

*Item No. 29 - Allowing 50% of required stalls to be compact.* Commissioner Williams felt 50% might be too much and felt stalls needed to be clarified as parking stalls. He also gave City historical perspective on disallowing compact stalls. Consensus was reached and staff will research other urban cities and insert the word "parking".

*Item No. 31 - Updated table of contents.* This was not available and staff noted it would be provided for the March 26, 2003 Planning Commission meeting.

**Motion** to concur with staff of proposed Ordinance No. 38.761 regarding miscellaneous zoning code text amendments not affecting Midtown.

M/S: Lalwani/Giordano

AYES: 7

NOES: 0

## **IX. ADJOURNMENT**

There being no further business, the meeting was adjourned at 10:05 p.m. to the next regular meeting of March 12, 2003



Respectfully Submitted,

Tambri Heyden  
Planning Commission  
Secretary

VERONICA RODRIGUEZ  
Recording Secretary